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QUEEN ANNE'S GATE LONDON SW1H 9AT

8 September 1987

Dear John,

PES: INDEPENDENT OVERSIGHT OF BROADCASTING PROGRAMME STANDARDS

The purpose of this letter is to enter a bid in the current PES round in respect of our Manifesto commitment to strengthen the oversight of the portrayal of sex and violence in broadcast programmes.

Detailed proposals and costings for carrying out this commitment are set out in the enclosed draft H Committee paper. I would like to be in a position to announce the new arrangements at the Party Conference.

I am sorry to have to enter an additional PES bid at this late stage but I believe that it would be unacceptable, in the wake of the Hungerford killings, to await the implementation of the broadcasting legislation planned for 1988/89 before setting up the proposed Broadcasting Council. On this basis the new Council could not start its new duties until the Autumn of 1989 at the earliest. Public opinion would not understand this.

I am having to seek additional PES provision because while I do not propose to change the present arrangement under which the broadcasting authorities meet the cost of the Broadcasting Complaints Commission, I do not think it would be right to ask them to pay for the broadcasting standards panel of the new Council. There is a clear distinction between the BCC's existing functions (limited to complaints about fairness or invasion of privacy) and the proposed new functions in relation to broadcasting standards, since the latter in effect are concerned with independent oversight of responsibilities - such as dealing with complaints, monitoring standards and undertaking relevant research - vested in the broadcasting authorities themselves. The broadcasting authorities would strongly resist a request to fund oversight of functions which they are themselves required to perform; and if they responded by running down their own work in this area the rationale of the new arrangements would be undermined. Also, the new Council will increasingly be concerned with forms of broadcasting - such as foreign satellite services - from which the existing broadcasting and cable interests could not gather revenue.

/These proposals

The Rt Hon John Major, MP

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2.

These proposals would incur net additional expenditure (ie taking into account existing PES provision for the Broadcasting Complaints Commission), for which there is no current PES provision, of the order of £0.5 million a year. I am therefore bidding (assuming policy clearance by H Committee) for £0.5 million for each of the three years of the Survey.

I am copying this letter to the Prime Minister, the Lord President and Sir Robert Armstrong

Yours,

Douglas.

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INDEPENDENT OVERSIGHT OF PROGRAMME STANDARDS

DRAFT MEMORANDUM BY THE HOME SECRETARY

In May Cabinet discussed my memorandum on the need for independent oversight of programme standards. Our Manifesto contained a commitment in the following terms: "The responsibility for enforcing broadcasting standards must rest with the broadcasting authorities. The present Broadcasting Complaints Commission has a relatively narrow remit. But there is deep public concern over the display of sex and violence on television. We will therefore bring forward proposals for stronger and more effective arrangements to reflect that concern". This paper makes specific proposals for carrying out this commitment.

2. Dissatisfaction with the present arrangements stems largely from the fact that the broadcasters are seen as judge and jury in their own cause. This is manifested in a number of ways: people feel that the broadcasters ignore their legitimate complaints about programmes; that programme makers are not accountable for the impact which their programmes make on society; and that only lip service is paid to the broadcasters' own guidelines on taste, decency and violence.

3. What is needed, therefore, is a watchdog organisation separate from the broadcasters and the Government, which would have the responsibility of scrutinising the standards of programmes broadcast on all forms of television and radio receivable in the United Kingdom, and commenting publicly upon them. I suggest that this organisation should be called the Broadcasting Council, and should have the following functions:

- (i) to reach findings on complaints of unjust treatment and invasion of privacy (ie incorporating the present function of the Broadcasting Complaints Commission);

(ii) to receive and analyse complaints on taste and decency and the portrayal of violence;

(iii) in the light of (ii) above, to reach a view, where necessary, on individual programmes and on the broadcasters' performance in relation to relevant programme standards;

(iv) to initiate studies on relevant programme standards (including capacity to commission research reviews);

(v) to monitor selectively programmes from overseas in relation to relevant standards;

(vi) to present an annual report to Parliament.

4. In line with the Manifesto commitment, the broadcasting authorities themselves would remain responsible for the content of their programmes and for all editorial decisions. The Broadcasting Council would not have responsibility for enforcing standards. But its influence, and its ability to publicise its views on individual programmes, would give it teeth. Where necessary the Council would be able to publicise its views without waiting for its annual report. I also propose to amend the law to empower the Council to direct the broadcasting body concerned to publish the Council's views on, eg, a particular programme. As previously agreed, the Council would not consider issues of political bias.

5. It seemed right to consider whether the remit of the Broadcasting Council should extend to videos, given that these too can bring vivid moving images into the home. Videos are, however, the subject of the separate arrangements (described in Annex A) under the Video Recordings Act 1984, which prohibits the supply of a video recording containing a video work which has not been given

a certificate by the British Board of Film Classification (BBFC). Annex A concludes that these arrangements, which are working better than is generally realised, would be undermined by extending the remit of the Broadcasting Council to videos. Nevertheless, it will be important for the Broadcasting Council and the BBFC to establish a good working relationship.

The composition of the Broadcasting Council

6. For reasons of economy, and to avoid a confusion of roles, I propose that the Council should subsume the functions of the present Broadcasting Complaints Commission (BCC) (which are limited to complaints about fairness or invasion of privacy). In practice I would see the Council having two distinct panels: one concerned with programme standards on taste, decency and violence; the other fulfilling the present function of the BCC.

Membership

7. We have always sought to appoint people of distinction to the membership of the BBC and the Independent Broadcasting Authority (IBA). It will be important to ensure that the membership of the Council's programme standards panel carries as much authority and public confidence as that of the BBC and IBA. In order to be sure that we can recruit people of sufficient calibre this suggests that the membership should be small and that the time commitment should not be too great - perhaps one day a fortnight for ordinary members excluding the Chairman. Seven members, including the Chairman, might be sufficient. I envisage them comprising a relatively youthful and intellectually rigorous group of people - none of them, except perhaps the Chairman, retired - who will be capable of taking a broad view of the issues, and speaking toughly and with authority when necessary. The panel concerned with fairness and privacy could comprise the BCC's present members, probably with little change.

Financial and manpower implications

8. The estimated costs of the Council in current prices are set out in Annex B. The staffing proposals assume that existing BCC staff will continue to service the complaints panel. The Secretary to the new body will be of Grade 5 level. The new body is likely to attract a very large volume of letters from the public and provision is made for a small correspondence section, mainly at AO level, and for word processing equipment. A small policy section, capable of advising the Council on the broad issues with which it will be concerned, will also be needed.

9. Excluding non-recurring capital costs, the estimated total cost is £668,000 a year which, net of existing PES provision for the BCC would produce a net increase in expenditure of £418,000 a year.

10. At present the costs of the BCC are met in full by the BBC, the IBA and the Cable Authority. I believe that this arrangement should continue under the Broadcasting Council so far as the present functions of the BCC are concerned. But to make the broadcasting authorities pay in addition for the programme standards panel would certainly be controversial, and could also be self-defeating, since the broadcasting authorities might react by running down their own work in this area. (There is also an international dimension: the Council will increasingly be concerned with foreign satellite services and may well have a watchdog role to play under the proposed European Convention.) I propose, therefore, that the costs of the programme standards panel of the Council should be met from public funds.

11. There is no provision in PES for this additional expenditure. I have submitted a bid in the current round, which is contingent on colleagues' agreement with the proposal in paragraph 12 below that we should set up the Council in advance of the broadcasting legislation planned for 1988.

Timing

12. The legislative arrangements to establish the Council in the form envisaged will be included in the Broadcasting Bill planned for 1988. But in advance of that I propose to set up the Council on an interim basis in what will be as near as possible to its statutory form. Particularly in the light of the Hungerford tragedy, public opinion would not understand if we were to wait for the legislation. There will be claims that the new body is not independent, but these can be countered.

13. I propose to make an early and full announcement about how we intend to proceed. We will work towards having the programme standards panel in place next Spring.

14. I invite colleagues to agree:

(a) that a body to be known as the Broadcasting Council should be established to oversee programme standards as discussed in this memorandum;

(b) that it should subsume the duties of the BCC, but should operate with two separate panels;

(c) that the body should be given statutory backing by the 1988 Broadcasting Bill, but should be set up in advance of that; and

(d) that an early announcement should be made.

D.H.

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ANNEX A

VIDEO RECORDINGS

1. The Video Recordings Act 1984 - based on a Private Member's Bill prepared and strongly supported by the Government - came into operation on 10 September 1985. The Act prohibits the supply of a video recording containing a video work which has not been given a certificate by the British Board of Film Classification. The Act is being applied in stages to successive classes of video work, so as to give time for their submission to and clearance by the Board. Since 1 September 1986 a certificate has been required for all English-language video works except those which are identical to cinema films registered with the DTI between certain dates. It is envisaged that all video works will be subject to the Act from September 1988.

2. The 1984 Act was founded upon the availability of the BBFC to operate it. The Board commanded respect because it has since 1912, on a non-statutory basis, censored cinema films to general satisfaction, including the satisfaction of local authorities who are statutorily responsible for preventing the showing of unsuitable films but who in practice adopt the Board's classifications. The Board carries out its video functions under the supervision of a President and two Vice-Presidents designated by the Home Secretary of the day, but it remains an independent body which could withdraw its services at any time. There is a Video Consultative Council composed of representatives of local authorities and of the video trade and of persons of individual distinction, which regularly meets officers of the Board to discuss general issues.

3. These arrangements are working well. "Video nasties" have disappeared from the shops. The video trade has come round to the view that the Act is in its interest because classification helps

its image and promotes the family market. The Board says that it has refused certificates to 13 video works, all because of violence, and cuts 29% of those passed for adult viewing, more than any of its counterparts in the EC. The trade do not object. Artistic critics tend to complain that the Board are too severe. Very few complaints have been made that they are too lax.

4. There are arrangements for appeals against the refusal of a certificate or against a decision to place a work in a particular category. There is no provision for appeals against the grant of a certificate, since it is not practicable - nor would it have much effect - for a certificate to be revoked after issue. Three appeals have so far been made, two of which have been allowed.

5. A watchdog organisation with the functions I envisage for broadcasting could not operate very satisfactorily in conjunction with the BBFC. The Board itself already exercises the closest form of supervision possible - that of censoring video works individually and in the closest detail - over cinema managers and video shops. The Video Recordings Act is a success for the Government, received very broad support and has not been fundamentally questioned. It would not be sensible to imply that these arrangements are defective. Nor would it be sensible to establish a new body with the function of declaring whether individual works were acceptable, when the supply of these works would ex hypothesi have been authorised by another body exercising statutory functions. Although the Board have not been consulted, I would expect their response to be that, if the new body's view is to be preferred to theirs, the new body should itself exercise the censorship role. The Board take their duties very seriously, often consulting with psychiatrists and others - including potential viewers - on the effect of individual scenes. They could say that they have as much advice to give to a new body as the new body has to give to them, and they would probably be right.

6. It would not of course be desirable for a sea-change to be made in broadcasting standards, particularly regarding violence, which found no echo at all in cinema and video films. Equally, however, it is not necessary that all video works - for example, those which Parliament envisaged would be available only to adults in sex shops - should conform to the standards appropriate to public broadcasting. In practice, I would expect - and encourage - the BBFC and its designated officers to attend to points made by the broadcasting watchdog body. This I believe is preferable to giving the new body a statutory role in relation to video works.

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ANNEX B

FINANCIAL AND MANPOWER IMPLICATIONS

Estimated cost of Broadcasting Council incorporating Broadcasting
Complaints CommissionOperating Costs

	£k (current prices)
1. Chairman's and Deputy Chairman's salary	67
2. Members salaries (6 working $\frac{1}{2}$ day a week and 4 working 1 day a week)	30
3. Pension to former Chairman	5
4. Staff costs: salaries and superannuation for 1 Grade 5, 1 Grade 7, 1 SEO, 4 EOs, 4 AOs, 2 AAs, 3 PSs, 3 Typists	266
5. Travel and subsistence	50
6. Rent, rates and services	120
7. Office services	36
8. Other costs:	
legal fees for complaints work	24
research)	60
) on programme standards work	
publicity)	10
9. Non-recurring start up costs (including word processors and receiving dish).	<u>20</u>
	<u>688</u>

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